



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **CAM/00ME/OAF/2019/0006**

Properties : **21 Bury's Bank Road, Greenham, Berkshire
RG19 8BZ
22 Bury's Bank Road, Greenham, Berkshire
RG19 8BZ
23 Bury's Bank Road, Greenham, Berkshire
RG19 8BZ
24 Bury's Bank Road, Greenham, Berkshire
RG19 8BZ**

Applicants (Tenants) : **Patricia Ann Brown (21)
John Pickering Rowntree (22)
Julia Madeline Rowntree (22)
Helen Jane Warren (23)
Peter Gordon Elliot (24)
Valerie Elliot (24)**

Representatives : **Ashely Wilson Solicitors &
Leasehold Valuers Limited**

Respondent (Landlord): **The Freehold Owner(s) whose identity is
unknown**

Date of Claim : **7th December 2018**

Type of Application : **To determine a purchase price on
enfranchisement where the landlord cannot be
found (section 27 of the Leasehold Reform Act
1967 as amended.**

Date of Determination : **17th October 2019**

Tribunal : **Judge JR Morris**

DECISION

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Decision

1. The Tribunal determined that the Premiums payable for each Property are:

£1,205.00 for 21 Bury's Bank Road, Greenham, Berkshire RG19 8BZ
£1,405.00 for 22 Bury's Bank Road, Greenham, Berkshire RG19 8BZ
£1,305.00 for 23 Bury's Bank Road, Greenham, Berkshire RG19 8BZ
£1,305.00 for 24 Bury's Bank Road, Greenham, Berkshire RG19 8BZ

Reasons

The Application

2. This is an application to the Tribunal under section 21 of the Leasehold Reform Act 1967 (the 1967 Act) to determine the amount to be paid into court pursuant to Section 27(5) of the 1967 Act as amended by the Commonhold and Leasehold Reform Act 2002.
3. Directions were issued on 8th August 2019 in which it was stated that provided the parties complied with the Directions the application would be determined on the basis of the documents alone and without an oral hearing unless the parties requested an oral hearing within 14 days or the Directions were not complied with or a comprehensive valuation report was not provided.
4. No request for an oral hearing was made and the Tribunal found that the Directions were complied with. The following Decision is therefore based on the documents and information provided in the Bundle submitted in accordance with the Directions.
5. This matter has been transferred to the First-tier Tribunal to determine the price payable in accordance with section 9(1) of the Leasehold reform Act 1967 ("the 1967 Act") pursuant to a Vesting Order ("the Order") made by District Judge Henson on 9th July 2019 at the County Court sitting at Reading Aylesbury in case number E02RG103 in respect of the individual freeholds of the following properties ("the Properties"):
 - 21 Bury's Bank Road, Greenham, Berkshire RG19 8BZ ("House 21")
 - 22 Bury's Bank Road, Greenham, Berkshire RG19 8BZ ("House 22")
 - 23 Bury's Bank Road, Greenham, Berkshire RG19 8BZ ("House 23")
 - 24 Bury's Bank Road, Greenham, Berkshire RG19 8BZ ("House 24")

The Law

6. The Leasehold Reform Act 1967 as amended by the Commonhold and Leasehold Reform Act 2002 ("the 1967 Act") enables tenants of houses on long leases at low rent to enfranchise (acquire the freehold) their properties.
7. Section 27 of the 1967 Act provides for an application to the court where the landlord cannot be found to dispense with notice and require a Leasehold Valuation Tribunal to determine a price under s 9 to be paid into court and terms of transfer to be filed with the court.
8. Section 9 of the 1967 Act provides for one of three methods of valuation to determine the price depending on the rateable value of the property at a specific time (the appropriate day). The relevant method in this case is that set out in s9 (1) which requires the Tribunal to assume that at the end of current term, the tenant

has applied for and been granted an extended lease under section 14 of the 1967 Act for a term of 50 years from the date of the existing tenancy at an open market ground rent. The basic principle is that the enfranchisement price should compensate the landlord for the loss of rents (including any current arrears) until the extended term date and the loss of the freehold at that time.

Documents

9. The Order was made following a statement dated 4th December 2018 the salient points of which were included in the Order. These were that the Applicants are the respective registered proprietors of the Properties pursuant to a lease dated 11th December 1608 for a term of 500 years (“the Lease”) having been so registered for more than two years prior to the issue of the claim and so qualified under the legislation to purchase the freehold. It was also stated that the Applicants (Claimants in the County Court) satisfied all the legislative conditions.
10. The registered titles are as follows:
 - Title Number BK385544 shows Patricia Ann Brown to have Good Leasehold Title of House 21 from 20th November 2003 (purchased 23rd October 2003).
 - Title Number BK57481, BK353622 & BK346222 shows John Pickering Rowntree and Julia Madeline Rowntree to have Good Leasehold Title of House 22 from 31st July 1972.
 - Title Number BK376659 shows Helen Jane Warren to have Good Leasehold Title of House 23 from 19th September 2007 (purchased 3rd September 2007).
 - Title Number BK159543 shows Peter Gordon Elliot and Valerie Elliot to have Good Leasehold Title of House 24 from 15th May 1978.
11. All the Leasehold Titles are derived from the Lease, the known details of which are recorded on the entries at the Land registry as:

Date:	11 th December 1608
Term:	500 years from 11 th December 1608
Rent:	£0.0s.4d if demanded
Parties:	(1) Robert Duncastell (2) Thomas Dove

The registered titles of each property included land which was not subject to the Lease.
12. The Order designated Ms Joanna Botley Partner at Ashley Wilson, Solicitors LLP to execute the related conveyances, HM Land Registry Forms Transfer of part of registered title TP1.
13. The amount of ground rent outstanding and owed to the Landlord was calculated as being £13.80.
14. The supporting documents were provided in the Bundle.

Description of Properties

15. The Applicant's Surveyor was Mr Stephen R Jones BA(Hons) MRICS who provided a written Report as an Expert and made the necessary Declaration to act as such.
16. The Report included a description of the Properties the main points of which are:

Situation

17. Houses 21, 22, 23 and 24, collectively known as Bury's Bank Cottages, are in a semi-rural position in the village of Greenham about 4 miles from Thatcham and a little over 2 miles from Newbury.

Description

18. The Houses are a terrace of four, two storey cottages and appear to be constructed of brick or stone behind rendered elevations with timber floors and under a pitched clay peg tile roof. Photographs were provided of all the Houses and each House was described as follows:

19. ***House 21***

The property is a double fronted end of terrace with gravelled off-street parking in the front and a rectangular rear garden. The cottage has replacement uPVC framed double glazed windows and modern electric heating and hot water system.

Ground floor

Hall/Dining area
Reception Room
Rear Hall
Kitchen
Bathroom/wc

First floor

Small Landing with walk in cupboard
Master Bedroom with rear dormer recess serving wc and wash hand basin
Second Bedroom

Outside

Front courtyard/garden
Small/average sized rear garden

Gross internal floor area approximately 72.52 square metres (781 square feet)

Improvements to be disregarded

Dormer added increasing usable floor space in master bedroom.

20. ***House 22***

The property is a mid-terrace with paved off-street parking in the front and a large 'L' shaped garden to the rear. There is an under-croft passageway to the right-hand

side of the ground floor which serves the front door and provides an informal shared access to the rear of House 21. The cottage has replacement uPVC framed double glazed windows and modern electric heating and hot water system.

Ground floor

Hall
Reception Room
Kitchen Area
Open Plan Dining Area and Family Room
Bathroom/wc

First floor

Small Landing
Master Bedroom partly above the under-croft passageway
Second Bedroom
Study leading to
Third Bedroom

Outside

Front Garden and Driveway
Large 'L' Shaped Rear Garden

Gross internal floor area approximately 97.37 square metres (1,048 square feet)

Improvements to be disregarded

Significantly extended to the rear providing for open plan dining area and family room on the ground floor and study and third bedroom on the first floor approximately 37.12 square metres (400 square feet).

21. ***House 23***

The property is a double fronted mid-terraced cottage with gravelled off-street parking in the front and a large rear garden with pedestrian access to a shared unmade path. The cottage has replacement uPVC framed double glazed windows and an oil-fired central heating and hot water system.

Ground floor

Reception Room
Kitchen
Bathroom/wc
Conservatory

First floor

Small Landing
Two Bedrooms

Outside

Front Garden/Parking Area
Large Rear Garden

Gross internal floor area approximately 67.44 square metres (726 square feet)

Improvements to be disregarded

Conservatory approximately 8.54 square metres (91.92 square feet)

22. ***House 24***

The property is a double fronted end of terrace with gardens to the front and side. The cottage has replacement timber framed secondary glazed windows and an electric heating and hot water system (solar panel on the roof).

Ground floor

Entrance Hall
Reception Room
Dining Room
Kitchen with door to Lean-To
Inner Hall
Cloakroom/wc

First floor

Landing
Two Bedrooms
Study/Third Bedroom
Bathroom
Separate wc

Outside

Front Garden
Average Sized Side garden
Single Garage via Small Driveway
Small Brick-built Potting /Storage Shed

Gross internal floor area approximately 85.04 square metres (915 square feet) excluding Garage and Outbuilding

Improvements to be disregarded

Enlarged and garage added.

23. ***Development Potential***

The Properties are not listed or in a conservation area and so could be extended. However due to their being a terrace on plots which are irregular in size and shape, it was submitted that they had already been developed to their fullest extent.

Calculations

Valuation Date

24. The Valuation date in this instance is the date on which the claim to enfranchise is issued in the County Court for a Vesting Order. This is 4th December 2018.

25. Firstly, Mr Jones identified the two methods of calculation under the legislation of the Original Valuation Basis and the Special Valuation Basis the main determining tests between the methods being the rateable value and the ground rent.
26. The first day of the term of the Lease being before 1965 then the 1965 rateable value is the relevant value. If it is below £200 then the Original Valuation Basis applies. Mr Jones said that he was not able to find the 1965 rating List but Thames water was able to provide the rateable values for 1973 as:
House 21 £67.00
House 22 £194.00
House 23 £100.00
House 24 £100.00
27. On the balance of probabilities, the rateable value for each of the Houses in 1965 was less than £200.0 and the passing ground rent for each of the Houses in 1965 was less than two thirds of the rateable value. Therefore, the Original Valuation Basis applies.
28. Secondly Mr Jones identified the three statutory components of the Original Valuation Basis for calculating the cost of the enfranchisement as:
- 1) The capital value of the Ground Rent Interest is calculated to compensate the freeholder for the loss of the future ground rent. This is assessed by applying a capitalisation rate.
 - 2) The capital value of Reversionary Interest is calculated to compensate the freeholder for the loss of the return of the property at the end of the Lease plus a statutory presumption of 50 year lease extension. The value is calculated by using a deferment rate applied to the current freehold value including any development potential (“entirety value”) of the property.
 - 3) The Modern Ground Rent Interest to account for a lease extension of 50 years at the end of the Lease.

Ground Rent Interest (Capitalisation Rate)

29. In his experience a capitalisation rate for a ground rent as under the Lease would be between 6% to 7% and therefore, he submitted a capitalisation rate of 6.5%.

Reversionary Interest (Deferment Rate and Current Freehold Value)

30. Pursuant to *Cadogan v Sportelli* [2007] 1 EGLR 153 Mr Jones adopted a deferment rate of 4.75%.
31. As stated, this is applied to the current freehold value. Mr Jones said that there was a paucity of recent evidence as to the freehold value of the Houses. Mr Jones used the last sales figures for House 23 and House 21, which were the most recent to be sold and taking into account the term unexpired on the Lease and applying the Land Registry Property Price Index for West Berkshire, sought to determine the value at the date of valuation.

32. House 23 sold in September 2007 for £233,500 with 101 years 3 months unexpired on the Lease and applying the Land Registry Property Price Index arrived at a value for December 2018 of around £314,657.
33. House 21 sold in October 2003 for £164,000 with 106 years unexpired on the Lease and applying the Land Registry Property Price Index arrived at a value for December 2018 of around £291,530.
34. To check these figures, he considered the sales of other freehold properties around the valuation date which, so far as possible, were similar to these Houses in Greenham.
35. Mr Jones submitted the details of three houses as follows:
36. 32 Bury's Bank Road, Greenham, which was sold in February 2018 for £592,500 and again in July 2019 for £577,500. The property was submitted to be notably superior to the Houses. It was an early Twentieth Century, four-bedroom, semidetached house of about 153 square meters (1,647 square feet), 'beautifully updated, with 120-foot garden and ample parking.
37. 38 Greyberry Copse Road, Greenham, which was sold in May 2019 for £368,000. The property is a mid-1980s three-bedroom semi-detached house of 154.9 square metres (1,667 square feet) with front and rear gardens and a car port. The property was also submitted to be superior to the Houses and the Land Registry Property Price Index for West Berkshire showed a decrease of around 1.4% between December 2018 to May 2019.
38. 63, Mandarin Drive, Newbury which was sold in October 2018 for £325,000. The property was built in that last 15 years and is a three-bedroom semi-detached house 81 square metres (876 square feet) with a small front garden and average rear garden. The property was said to be less attractive to some purchasers who would prefer the period features of the Houses but more attractive to the purchaser with a family who would prefer it layout and lower expected maintenance costs. The Land Registry Property Price Index for West Berkshire showed a decrease of around 0.7% between October and December 2018.
39. Based upon this evidence Mr Jones submitted that the freehold value of the Houses was as follows:
 - House 21 £300,000
 - House 22 £350,000
 - House 23 £325,000
 - House 24 £340,000
40. Applying 4.75% to these figures he calculated the reversionary interest to be:
 - House 21 £452
 - House 22 £528
 - House 23 £490
 - House 24 £513

Modern Ground Rent Interest

41. To capitalise the modern ground rent for the 50-year extended lease from 10th December 2108 following must be assessed:
 - the site value based on the ‘entirety value’
 - a capitalisation rate.
42. Mr Jones submitted that it was appropriate to take a site value of 33.33%. In doing so he referred to a previous decision of the First-tier Tribunal BIR/41UB/OAF//2018/0014 in which a one third apportionment was adopted.
43. Lastly Mr Jones said that in his experience a dynamic ground rent is often 5.5% and set the capitalisation rate accordingly.

Enfranchisement Price

44. Applying the capitalisation rate, deferment rate and current freehold value he had assessed, Mr Jones provided calculations for each of the properties using the Original Valuation method and assuming that there was some form of negotiation with the freeholder. He submitted that the enfranchisement prices are as follows:
 - House 21 £1,205.00
 - House 22 £1,405.00
 - House 23 £1,305.00
 - House 24 £1,365.00

Decision

45. The Tribunal noted the Applicants’ Surveyor’s report and agreed with the method of valuation being that under s9(1) of the 1967 Act.
46. The Tribunal also agreed with the basis upon which Mr Jones, the Applicant’s Surveyor, made his calculations.
47. The Tribunal therefore adopted the Applicants’ Surveyor’s calculations as set out in Annex 2 to these Reasons.
48. The Tribunal determined that the Premiums payable for each Property are:
 - £1,205.00 for (House 21) 21 Bury’s Bank Road, Greenham, Berkshire RG19 8BZ
 - £1,405.00 for (House 22) 22 Bury’s Bank Road, Greenham, Berkshire RG19 8BZ
 - £1,305.00 for (House 23) 23 Bury’s Bank Road, Greenham, Berkshire RG19 8BZ
 - £1,305.00 for (House 24) 24 Bury’s Bank Road, Greenham, Berkshire RG19 8BZ

Judge JR Morris:

APPENDIX 1 - RIGHTS OF APPEAL

1. If a party wishes to appeal the decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

APPENDIX 2 – VALUATION DECISION

Property: 21 Bury's Bank Road, Greenham, Berkshire RG19 8BZ

Date of Valuation:	17.12.2018
Ground Rent:	£0.02 expires 10/12/2108
Unexpired Term:	90 years
Yield Capitalisation:	6.5%
Modern Ground Rent Capitalisation Rate:	5.5%
Deferment Rate:	4.75%
Entirety Value:	£300,000.00
Site Value @ 33.33 % of Entirety Value:	£99,990.00
Section 15 Rent @ 5.5% of Site Value:	£5,499.45
Statutory Term:	50 years

Valuation

Unexpired Term:

Ground rent (£s pa)	£0.02	
YP for term of 90 years @ 6.5%	<u>15.3315</u>	
		£0.31

Statutory Term:

S 15 Ground rent (£s pa)	£5,499.45	
Years purchased (YP) for term of 50 years @ 5.5%	16.9315	
Present value (PV) deferred for 90 years @ 5.5%	0.0081	
16.9315 x 0.0081	0.1371451	
0.1371451 x 5499.45		£754.22

Reversion to an Estate in Fee Simple

Capital Value of Reversion	£300,000.00	
Present value (PV) deferred for 140 years @ 4.75%	0.0015	
0.0015 x 300000		£450.00

Total £1,204.53

Premium Payable £1,205

Property: 22 Bury's Bank Road, Greenham, Berkshire RG19 8BZ

Date of Valuation:	17.12.2018
Ground Rent:	£0.02 expires 10/12/2108
Unexpired Term:	90 years
Yield Capitalisation:	6.5%
Modern Ground Rent Capitalisation Rate:	5.5%
Deferment Rate:	4.75%
Entirety Value:	£350,000.00
Site Value @ 33.33 % of Entirety Value:	£116,655.00
Section 15 Rent @ 5.5% of Site Value:	£6,416.03
Statutory Term:	50 years

Valuation

Unexpired Term:

Ground rent (£s pa)	£0.02	
YP for term of 90 years @ 6.5%	<u>15.3315</u>	
		£0.31

Statutory Term:

S 15 Ground rent (£s pa)	£6,416.03	
Years purchased (YP) for term of 50 years @ 5.5%	16.9315	
Present value (PV) deferred for 90 years @ 5.5%	0.0081	
16.9315 x 0.0081	0.1371451	
0.1371451 x 6416.03		£879.93

Reversion to an Estate in Fee Simple

Capital Value of Reversion	£350,000.00	
Present value (PV) deferred for 140 years @ 4.75%	0.0015	
0.0015 x 350000		£525.00

Total £1,405.24

Premium Payable £1,405.00

Property: 23 Bury's Bank Road, Greenham, Berkshire RG19 8BZ

Date of Valuation:	17.12.2018
Ground Rent:	£0.02 expires 10/12/2108
Unexpired Term:	90 years
Yield Capitalisation:	6.5%
Modern Ground Rent Capitalisation Rate:	5.5%
Deferment Rate:	4.75%
Entirety Value:	£325,000.00
Site Value @ 33.33 % of Entirety Value:	£108,322.50
Section 15 Rent @ 5.5% of Site Value:	£5,957.74
Statutory Term:	50 years

Valuation

Unexpired Term:

Ground rent (£s pa)	£0.02	
YP for term of 90 years @ 6.5%	<u>15.3315</u>	
		£0.31

Statutory Term:

S 15 Ground rent (£s pa)	£5,957.74	
Years purchased (YP) for term of 50 years @ 5.5%	16.9315	
Present value (PV) deferred for 90 years @ 5.5%	0.0081	
16.9315 x 0.0081	0.1371451	
0.1371451 x 5957.74		£817.07

Reversion to an Estate in Fee Simple

Capital Value of Reversion	£325,000.00	
Present value (PV) deferred for 140 years @ 4.75%	0.0015	
0.0015 x 325000		£487.50

Total £1,304.88

Premium Payable £1,305.00

Property: 24 Bury's Bank Road, Greenham, Berkshire RG19 8BZ

Date of Valuation:	17.12.2018
Ground Rent:	£0.02 expires 10/12/2108
Unexpired Term:	90 years
Yield Capitalisation:	6.5%
Modern Ground Rent Capitalisation Rate:	5.5%
Deferment Rate:	4.75%
Entirety Value:	£340,000.00
Site Value @ 33.33 % of Entirety Value:	£113,322.00
Section 15 Rent @ 5.5% of Site Value:	£6,232.71
Statutory Term:	50 years

Valuation

Unexpired Term:

Ground rent (£s pa)	£0.02	
YP for term of 90 years @ 6.5%	<u>15.3315</u>	
		£0.31

Statutory Term:

S 15 Ground rent (£s pa)	£6,232.71	
Years purchased (YP) for term of 50 years @ 5.5%	16.9315	
Present value (PV) deferred for 90 years @ 5.5%	0.0081	
16.9315 x 0.0081	0.1371451	
0.1371451 x 6232.71		£854.79

Reversion to an Estate in Fee Simple

Capital Value of Reversion	£340,000.00	
Present value (PV) deferred for 140 years @ 4.75%	0.0015	
0.0015 x 340000		£510.00

Total £1,365.10

Premium Payable £1,365.00